

REMARKS

Applicant respectfully requests reconsideration of the present application in view of this response. Claims 4 and 5 have been canceled, and claim 10 has been amended. Claims 1-3 and 6-16 are pending. Of those, claims 1, 10 and 16 are independent claims.

OBJECTIONS

Claims

The Examiner has objected to Claim 10 due to alleged informalities. Applicant has amended claim 10 to correct a minor typographical error as suggested by the Examiner. Further, Applicant submits that all amendments made to claim 10 are non-narrowing, have not been made to overcome any prior art rejection, and have been made for no other reason than to correct a minor typographical error.

Drawings

The drawings remain objected to under 37 C.F.R. 1.83(a). Specifically, the Examiner submits that the drawings allegedly fail to illustrate the analogue-to-digital converter of dependent claims 4 and 5.

For at least the reasons set forth in Applicant's March 7, 2005 response Applicant still does not agree with the Examiner's above allegation. However, in an effort to expedite prosecution of the present application, Applicant has

canceled dependent claims 4 and 5 without prejudice or disclaimer of the subject matter set forth therein.

Applicant respectfully requests withdrawal of the above objections.

PRIOR ART REJECTIONS

Rejections under 35 U.S.C. §103(a)

Claims 1-15 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Rasmusson (U.S. Patent No. 5,515,432) in view of Ostman et al. (U.S. Patent No. 5,786,782, hereinafter referred to as "Ostman") and further in view of Malmi et al. (U.S. Patent No. 5,313,661, hereinafter referred to as "Malmi"). Applicant respectfully traverses this rejection.

On page 5 of the Office Action, in response to arguments set forth in Applicant's previous response, the Examiner states:

According to Applicants (see paper dated 3/7/05, page 14) Rasmusson illustrates only one volume control input from the volume control input to the microprocessor 680). The Examiner notes that Applicant's independent claims are extremely silent with respect to volume control signals. The Examiner notes that Receive DSP 670 clearly shows two inputs with one output.

Applicant does not disagree that neither independent claim 1 nor independent claim 10 recites volume control signals. However, it appears the Examiner does not fully understand Applicant's argument. Applicant asserts that the single volume control input to the DSP 670 of Rasmusson is the only input, which could even arguably be considered as receiving a "control signal," as set forth in claim 1.

As shown in Fig. 6 of Rasmusson, the first input to the DSP 670 receives a volume setting of volume control 615. The second input receives an input pulse code modulated (PCM) bit stream 655 from an ASIC gate array 650. The input pulse code modulated (PCM) bit stream 655 is recovered from a received signal by a receive portion of the radio transceiver. Thus, the bit stream 655 is clearly not a user operable control signal, and the DSP 670 does not receive a "first and a second control signal of the plurality of user operable control signals," as set forth in claim 1. Absent the reception of these signals, the received DSP 670 of Rasmusson clearly does not multiplex a "first and a second control signal of the plurality of user operable control signals into a multiplexed control signal," as set forth in claim 1.

Moreover, on page 5 of the Office Action, it appears the Examiner relies on Malmi to provide the requisite motivation for the alleged combination of Rasmusson, Ostman and/or Malmi. However, Applicant respectfully disagrees.

FIGs. 1-3 of Malmi disclose a circuit for adjusting volume control for a mobile phone. A volume control potentiometer 1 is located in an operating device (FIG. 2). The operating device (FIG. 2) is physically separate from a transceiver unit. In operation, a single control signal from the operating device (FIG. 2) is read by a microprocessor 3. That is, at most Malmi discloses only a single user operable (volume) control signal. Absent a plurality of user operable or volume control signals, the teachings of Malmi would not motivate the skilled person to provide a multiplexer for multiplexing first and second control signals from first and second user operable control members.

In addition, the multiplexer 5 of Malmi is used for selecting a feedback resistor for subsequent amplifier (see Abstract of Malmi). Thus, the multiplexer 5 of Malmi has a completely different purpose than the, "means for multiplexing," set forth in claim 1. This is also sufficient reason to establish why the skilled artisan would not be motivated to incorporate the multiplexer of Malmi, nor would the teachings of Malmi prompt the skilled artisan to modify any of Rasmusson, Ostman and/or Malmi.

Further still, while the multiplexer 5 could arguably be involved in setting the volume, the multiplexer 5 is illustrated as shown in FIG. 1 to be positioned after the microprocessor 3 within the volume adjustment circuit, and arranged within the transceiver unit of the mobile phone and not in the operating device, or "control module," set forth in claim 1. Malmi neither discloses nor suggests incorporating a multiplexed control signal into the operating device (control module) nor does Malmi suggest using a plurality of user operable control members in his operating device (control module).

In view of the above, Applicant asserts that the Examiner has still failed to provide evidence of the necessary motivation needed to lead one of ordinary skill in the art to combine the teachings of Rasmusson, Ostman and/or Malmi as forth in two cases decided by the Court of Appeals for the Federal Circuit (CAFC), In re Dembiczak, 175 F.3d 994, 999 (Fed.Cir. 1999) and In re Kotzab, 217 F.3d 1365, 1371 (Fed.Cir. 2000).

As such, a *prima facie* case of obviousness has not been properly established, and the above rejection of claim 1 should be withdrawn.

Claim 10 is also allowable for at least reasons somewhat similar to those discussed above with respect to claim 1. In addition, claims 2, 3, and 6-15 are allowable at least by virtue of their dependency from claims 1 or 10.

CONCLUSION

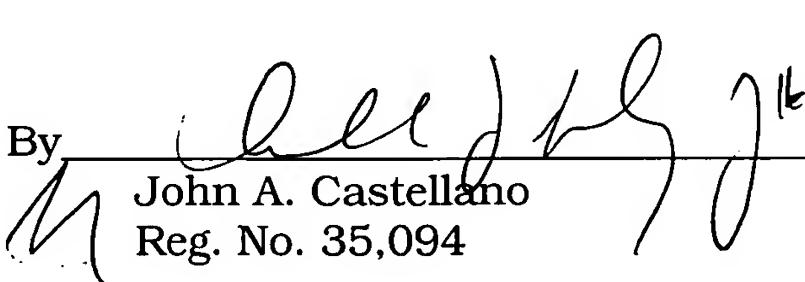
In view of above remarks, reconsideration of the outstanding rejection and allowance of the pending claims is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Andrew M. Waxman, Reg. No. 56,007, at the number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, PLC

By 
John A. Castellano
Reg. No. 35,094

JAC/AMW:jcp

P.O. Box 8910
Reston, VA 20195
(703) 668-8000